IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

WP(C).No. 9801 of 2007(P)

PETITIONERS:

1. **P.R.PRADEEP KUMAR, WORKSHOP ASSISTANT (RELIEVED) COLLEGE OF APPLIED SCIENCE, THODUPUZHA RESIDING AT PAVINNAYIL HOUSE, AMBIKA MARKET P.O., VAIKOM.**

2. **K.MADHU KUMAR, WORKSHOP ASSISTANT (RELIEVED), COLLEGE OF ENGINEERING, POONJAR, RESIDING AT KIZHAVALLIL HOUSE, MUTHOLY PO., KOTTAYAM.**

3. **K.BIJU, WORKSHOP ASSISTANT(RELIEVED), COLLEGE OF ENGINEERING, KALLOOPPARA, THIRUVALLA, RESIDING AT KAMAL, KUNNUMPARA, OORUTTAMPALAM, THIRUVANANTHAPURAM.**

BY ADV. SRI.N.SUGATHAN
SMT.VARSHA BHASKAR

RESPONDENTS:

1. **THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, HIGHER EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE DIRECTOR, INSTITUTE OF HUMAN RESOURCES DEVELOPMENT, PRAJOE TOWERS, VAZHUTHACAUD, THIRUVANANTHAPURAM - 14.**

3. **THE PRINCIPAL, COLLEGE OF APPLIED SCIENCE, THODUPUZHA,IDUKKI DISTRICT.**

4. **THE PRINCIPAL, COLLEGE OF ENGINEERING, POONJAR, IDUKKI DISTRICT.**

5. **THE PRINCIPAL, COLLEGE OF ENGINEERING, KALLOOPPARA, KADAMANKULAM P.O., THIRUVALLA.**

BY GOVERNMENT PLEADER SRI. NANDAKUMAR for R1
BY ADV. SRI.N.N.SUGUNAPALAN, SC, IHRD for R2 to R5
SRI.S.SUJIN, SC, IHRD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF ORDER NO.E4/5242/2001/HRD DTD. 30/05/2001 OF 2ND RESPONDENT.**

EXT.P1(A): **COPY OF THE ORDER DTD. 1/12/2001 OF THE 2ND RESPONDENT.**

EXT.P1(B): **COPY OF ORDER NO.E4/5242/2001/HRD (4) DTD. 31/05/06 OF 2ND RESPONDENT.**

EXT.P2: **COPY OF ORDER NO.E4/35/2000/HRD DTD. 29/10/01 OF 2ND RESPONDENT.**

EXT.P2(B): **COPY OF ORDER NO.EB3-7106/2002/HRD DTD. 19/08/06 OF 2ND RESPONDENT.**

EXT.P2(C): **COPY OF THE LETTER DTD. 19/02/2007 OF THE 2ND RESPONDENT.**

EXT.P3: **COPY OF ORDER NO.E4-5242/201/HRD DTD. 12/09/2001 OF 2ND RESPONDENT.**

EXT.P3(A): **COPY OF ORDER NO.E4/5242/2001/HRD DTD. 13/08/2004 OF 2ND RESPONDENT.**

EXT.P3(B): **COPY OF ORDER NO.EB3/5242/01/HRD/5 DTD. 30/08/2006 OF 2ND RESPONDENT.**

EXT.P3(B): **COPY OF ORDER NO.EB3/5242/01/HRD/5 DTD. 30/08/2006 OF 2ND RESPONDENT.**

EXT.P4: **COPY OF ORDER NO.E4-3346/2001/HRD DTD. 31/03/2001 OF 2ND RESPONDENT.**

EXT.P5: **COPY OF ORDER NO.E3/2375/201/HRD DTD. 31/03/2001 OF 2ND RESPONDENT.**

EXT.P6: **COPY OF ORDER NO.E4-3346/2001/HRD DTD. 31/03/2001 OF 2ND RESPONDENT.**

EXT.P7: **COPY OF ORDER NO.E4-2082/2000/IHRD DTD. 23/02/2002.**

EXT.P8: **COPY OF ORDER NO.E4-4770/03/IHRD DTD. 28/06/2003.**

/TRUE COPY/

P.S.TO JUDGE

KSS

V.GIRI, J.

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Dated this the 14th day of November, 2007.

JUDGMENT

Petitioners were engaged on casual/ad hoc basis as Workshop Assistants, in the Engineering Colleges under the Institute of Human Resources Development. Their engagement was for a period of 179 days as evidenced by Ext.P1 (and similar orders according to the petitioners themselves), but the period of engagement was later extended in some cases. The petitioners had continued for more than 5 years on an ad hoc basis, petitioners contend. They submit that similarly situated Workshop Assistants temporary/ad hoc employees were regularized as per the orders issued by the Government. They refer to Exts.P4 to P8 in that regard. Petitioners seek a similar treatment.

2. In the counter affidavit filed by the IHRD, it is contended that the petitioners were appointed only on an ad hoc basis and they cannot claim regularisation of service. The employment in

question is public employment. No specific procedure was followed in the matter of engagement of the petitioners.

3. In my view, the claim made by the petitioners is squarely covered against them by the decision of the Supreme Court in **Secretary, State of Karnataka v. Umadevi {2006(4) SCC 1}**. The Supreme Court had specifically interdicted regularisation of casual/ad hoc employees, who were engaged in public employment, but without following any notified selection procedure.

4. Learned counsel for the petitioners submits that the judgment in **Umadevi** was distinguished by the Supreme Court in the subsequent decision in **U.P.State Electricity Board v. Pooran Chandra Pande {2007(4) KLT 513 (SC)}**. In the said judgment, the Supreme Court held that the judgment in **Umadevi** cannot be applied to the facts of the case in consideration, inasmuch as the regularisation apparently claimed by the petitioners in the

said case was on the premise that similarly situated persons were regularised as such. It is also noteworthy that the persons who claimed regularisation therein had actually been in service for more than 23 years. This seems to have weighed with the Supreme Court in upholding the judgment of the High Court, which was impugned therein.

5. The law laid down by the Supreme Court in **Umadevi** is categorically clear. It applies to the facts of this case squarely.

Writ petition is bereft of merits and the same is, therefore, dismissed.

Sd/-

(V.GIRI)

JUDGE

sk/

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